

# Memo



TO: Conservation Commission Members  
FROM: Kate Homet, Environmental Planner; Peter Britz, Director of Planning & Sustainability  
DATE: May 9, 2025  
SUBJ: May 14, 2025 Conservation Commission Meeting

---

**224 Cate Street  
Jesse Anderson, Owner  
Assessor Map 173 Lot 3**

This application is for an after-the-fact permit to perform an alteration of the natural vegetative state within the wetland buffer. This property had recent work done involving removal of the top layer of soil across the majority of the buffer, removal of trees and the removal of other existing vegetation such as shrubs. This application includes a restoration plan to revegetate and plant a portion of the wetland buffer. These plans include seeding the exposed topsoil with a conservation seed mix, grinding down the stumps to the surface, planting three red maples and seven dogwood shrubs.

*1. The land is reasonably suited to the use activity or alteration.*

The removal of vegetation from the buffer on this property significantly increased the impact of pollution, sediment and nutrient runoff into the brook, especially with the steep embankment leading to the water's edge. The plan to establish shrubs and replace the two trees within the 40-ft no-cut vegetative buffer will significantly help to re-establish that part of the buffer and prevent further runoff and erosion.

*2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.*

The applicant is proposing to seed all previously disturbed areas with an appropriate seed mix and plant a well-spaced section of trees within an area of the wetland buffer that relies on dense vegetation to protect the brook.

*3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.*

The disturbance of this site was in direct violation of the City of Portsmouth Zoning Ordinance and increased the risk of disturbance to Hodgson Brook, an already impaired waterbody that requires protection. With the successful establishment of the proposed plantings and conservation seed mix, the previous impacts to the wetland buffer should be mitigated.

*4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.*

This area had already been altered and is proposed to be revegetated to come into compliance with our wetland buffer requirements.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.*

This restoration of the previously disturbed area will bring this site back into compliance and hopefully help to improve the health of Hodgson Brook over time.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*

This site is unique as it triggers a wider vegetated buffer strip. With the slope of the brook's bank, this site requires a 40' vegetated buffer strip according to Section 10.1018.22 of the Zoning Ordinance. Currently, two buildings exist within this area which prevents the entire vegetation of this strip, but the planting of the trees and shrubs greatly increases the amount of vegetation there currently.

**Recommendation:** Staff recommends approval of this after the fact wetland conditional use permit to the Planning Board with the following conditions:

1. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. Markers are to be placed along the 40' vegetative buffer (due to the steep slope) at 50-foot intervals and must be installed prior to the start of any site work.
2. A monitoring report for the first two years after planting will be submitted annually to the Planning and Sustainability Department. The first report shall be submitted after the restoration work has been completed. This report will include an update on all plant health, growth, and establishment. Additionally, it should include methods for irrigation and information on routine maintenance practices. The second report must demonstrate at least an 80% survival rate of new plantings after the first two years of monitoring, if not, then replanting will be required.
3. Prior to the submission to the Planning Board, applicant shall provide a maintenance plan for current and future property owners that gives instructions on maintaining the conservation mix seeded areas. This is to educate property owners on the correct way to care for non-traditional grass lawns.

**400 Spaulding Turnpike  
SLF Realty Group LLC, Owner  
Assessor Map 238 Lot 2**

This application is for an after-the-fact wetland conditional use permit for permanent wetland buffer impacts that were not previously captured within the wetland conditional use permit for this property, among many others, that was a part of the 2018 Eversource utility pole upgrade project. While working on this parcel to replace the utility poles, the previously approved access path to reach the poles changed which changed the wetland and wetland buffer impact numbers. In addition, the access path changed from a temporary disturbance to a permanent disturbance. This permit application requests the permanent wetland buffer disturbance of 3,685 s.f. associated with keeping a portion of the access path as crushed gravel for future maintenance needs.

*1. The land is reasonably suited to the use activity or alteration.*

This work was part of a previously approved project that had previously approved impact to the wetland for access to Eversource's Pole #19. The actual work that occurred eliminated the impact to the wetland resource and shifted impacts to the wetland buffer.

*2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.*

The poles that had to be replaced are located directly within the wetland buffer behind the Ford Dealership. To access the poles, there is no way to bring in equipment without entering into the buffer.

*3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.*

After work on replacing the poles finished, the work pad directly under the poles was naturally revegetated which is the area adjacent to the wetland to the north. The most adverse impact of this project is the permanence of the crushed gravel access road leading to the poles. This was left in place for future maintenance needs but a silt soxx buffers it from the wetland to the south, which should remain as a permanent installation with replacement over time as needed.

*4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.*

The temporary alteration to the buffer that occurred as part of this work included the work pad underneath the poles. This area has been allowed to naturally revegetate which has occurred. The access road has altered the natural vegetative state but it was noted during the site walk that vegetation is already growing through it and a silt soxx remains in place to protect the adjacent wetland. This seems sufficient for buffering the wetland from the permanent impacts of the accessway.

*5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.*

When this violation of the original permit was first noticed, the work pad had not yet revegetated, and the access road contained many layers of crushed gravel for accessing the poles and for parking Ford Dealership vehicles off lot. Since this has occurred, an agreement has been made to prevent future parking of vehicles within this area, a silt soxx has been replaced south of the accessway to prevent impact to the wetland, the property owners have removed a large amount of gravel from the accessway, and the work pad has started to naturally revegetate.

*6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*

The work pad area has been returned to a natural state and while it is not feasible to allow full revegetation of the accessway due to future needs for maintenance, most of the crushed gravel has been removed which created a much thinner layer of impact to the buffer, allowing vegetation to poke through in some areas.

**Recommendation:** Staff recommends approval of this after the fact wetland conditional use permit to the Planning Board with the following conditions:

1. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. Markers are to be placed along the 25' vegetative buffer at 50-foot intervals and must be permanently installed as a part of this after the fact permit.